



Fair Political Practices Commission

428 J Street, Suite 620, Sacramento, CA 95814

www.fppc.ca.gov



NEWS RELEASE

For Immediate Release:
October 19, 2004

Contact: Sigrid Bathen
(916) 322-7761

PG&E agrees to \$240,000 settlement with FPPC, SF Ethics *Failed to file reports disclosing \$800,000 in contributions*

The Fair Political Practices Commission today (Oct. 19) announced that it has reached a civil settlement with Pacific Gas and Electric Company, San Franciscans Against the Blank Check – No on Measure D Committee (sponsored by PG&E), and the committee's treasurer, James R. Sutton, regarding campaign disclosure violations in connection with the Nov. 5, 2002, San Francisco election.

The settlement was reached in conjunction with a related administrative settlement announced last night (Oct. 18) between the San Francisco Ethics Commission, the Blank Check committee, and Sutton, with a total fine of \$240,000.

The FPPC suit alleges that PG&E, its Blank Check committee, and the committee's treasurer failed to file campaign reports disclosing two contributions made by PG&E to the committee, totaling \$800,000, just before the November 2002 election. The contributions were used to pay for advertising in opposition to Measure D, which would have made the San Francisco Public Utilities Commission, rather than PG&E, the primary provider of electricity to San Francisco residents and businesses.

The FPPC suit was filed today (Oct. 19) along with a stipulation for entry of a judgment and a proposed judgment against PG&E, the Blank Check committee, and its treasurer for the non-reporting violations alleged. Copies of the complaint, stipulation and proposed judgment are available on the litigation page of the FPPC website at www.fppc.ca.gov. Settlement of the FPPC lawsuit will not become final until it is signed by a Sacramento Superior Court judge, which is expected to occur this week.

According to the complaint, during the last two weeks before the San Francisco election, PG&E made two contributions to the Blank Check committee to oppose Proposition D on the San Francisco ballot. The first of the two contributions was for \$500,000, and the second for \$300,000. Under state law, PG&E was required to file a paper and an electronic report with the California Secretary of State, disclosing each contribution within 24 hours of when it was made.

The Blank Check committee and Sutton were also required to file a paper report with the San Francisco city clerk, disclosing each contribution within 24 hours of when it was

-more-

received. Neither PG&E nor the Blank Check committee filed the required reports until after the election.

The violations were made public after the election when Nielsen, Merksamer, Parrinello, Mueller & Naylor, LLP, the law firm that was hired by PG&E and the committee to handle their campaign filings, announced that it had just discovered that it mistakenly failed to file the required reports concerning the two contributions. The matter was then investigated by the FPPC and the San Francisco Ethics Commission.

The investigation concluded that the reporting violations, while serious, were not intentional, and resulted from negligence. Subsequent negotiations between the parties then resulted in the settlements that have been reached with the FPPC and the San Francisco Ethics Commission.

Under the settlement with the FPPC, PG&E has admitted four violations of state law by not reporting the two contributions on paper and electronically, and the Blank Check committee and its treasurer have admitted two violations of state law by not reporting the two contributions -- for a fine of \$140,000. Under the settlement with the San Francisco Ethics Commission, the Blank Check committee and its treasurer have also admitted to two violations of a San Francisco ordinance governing campaign reporting in city elections, by not reporting the two contributions, for an additional fine of \$100,000.

The law firm of Nielsen Merksamer and James R. Sutton, its former partner, have taken responsibility for the violations, and are paying the fines on behalf of PG&E and the committee.

This case was handled as a civil lawsuit by the FPPC, rather than as an administrative action, and the terms of the settlement were brought before the members of the commission for approval during an earlier closed-session discussion of pending litigation. Because of the amount of the unreported contributions, the case was handled as a civil action to allow for the possibility of a higher fine.

An administrative action is the FPPC's more common method of prosecution in enforcement matters. For the 2002 election, the maximum possible administrative penalty was \$5,000 per violation, but the maximum possible civil penalty was the amount of the campaign activity not properly reported.

Commission Counsel William J. Lenkeit and Investigator III Jon Wroten handled the case for the FPPC.

###